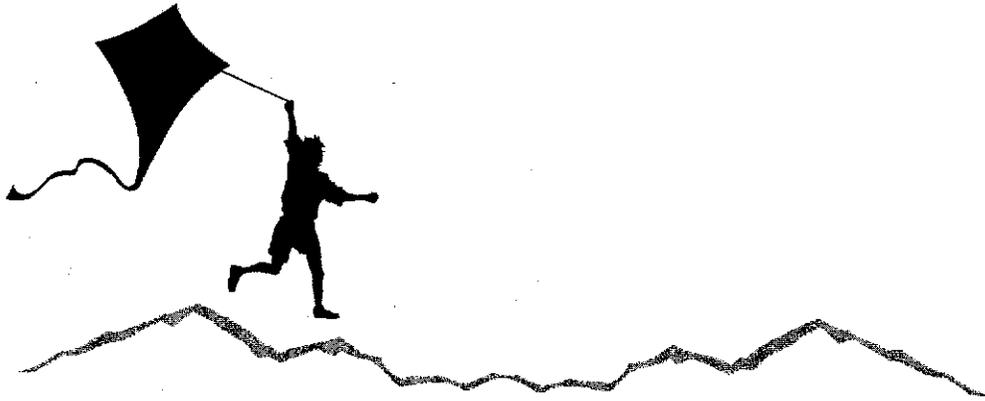


EXHIBIT 2
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Alliance for a Healthy Montana

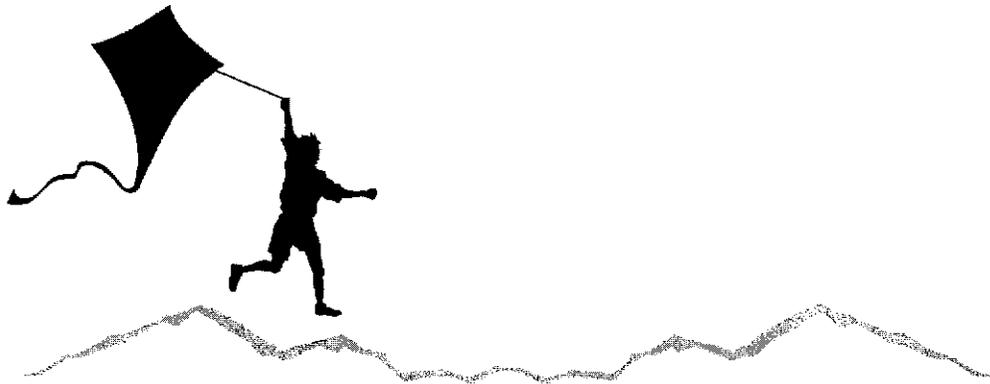


Advancing Disease Prevention and Public Health Care

**2005 Legislative Proposals
Prepared January 2005**



Alliance for a Healthy Montana



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Introduction

The Alliance for a Healthy Montana is a coalition of health care providers, consumers, insurers, voluntary health organizations, tobacco use prevention groups and other interested parties dedicated to helping shape a healthy Montana through specific public policy initiatives.

The collective commitment of these groups is to reduce the death and disease caused by commercial tobacco use, increase funding for tobacco use prevention, increase the number of Montanans covered by health insurance and strengthen the health care safety net.

The Alliance was formed to take advantage of the unique public health opportunity created by the master settlement agreement (MSA) between states and the major tobacco companies in 1998. The money Montana received as a result of this settlement presented an exceptional circumstance to address critical tobacco disease prevention and unmet health care needs in Montana. Since then, the Alliance has been instrumental in the passage of three ballot initiatives that have resulted in millions of dollars in increased tobacco tax revenue and funds earmarked to expand health care programs.

Commercial tobacco use is the leading cause of preventable death in Montana. Each year 1,400 Montanans die prematurely of tobacco related diseases; another 110 - 200 adults, children and babies die because of other people's smoke. The tobacco related costs to Montana total \$216 million per year – including \$52 million in additional Medicaid program costs.

The vision and ambition of the Alliance is to make Montana a healthier place by promoting proven commercial tobacco use prevention programs, advocating for access to health care services for the most needy Montanans and strengthening the health care safety net, building public support for prevention and health care funding and lobbying for new prevention and health care funding. Our belief is the health care and prevention community is more effective in achieving our long-term vision of a healthy Montana if we work together and seek solid public health policy goals while also working to provide funding to achieve those goals.

A Brief History of the Alliance for a Healthy Montana

1999 – Montana received its first payment from the MSA. Governor Racicot and Attorney General Mazurek along with health groups drafted legislation to fund tobacco use prevention at levels recommended by the Centers for Disease Control (CDC), fund health programs and create a health trust. This legislation failed, and all of the state's receipts from the MSA went into the general fund. Governor Racicot convinced the Legislature to earmark \$7 million for the biennium from general fund for tobacco disease prevention and created the Governor's Advisory Council on Tobacco Disease Prevention.

Post 1999 Session – At the request of the American Cancer Society, American Heart Association and the American Lung Association of the Northern Rockies, health groups met to discuss MSA allocations and express frustration with the results of the MSA allocation process. From these

discussions, the Alliance for a Healthy Montana was formed as a vehicle for health groups to lobby for more appropriate use of the MSA funds to address health care needs and tobacco disease prevention.

2000 – The Alliance drafted a constitutional initiative to establish a Health Care Trust with 40 percent of the MSA dollars. After circulating the petition, legislators during a special session put CA-35 on the 2000 ballot. CA-35 passed by with 73 percent support of the total vote. CA-35 earmarked the interest from the Tobacco Settlement Trust Fund for funding tobacco prevention and health care. It also prohibits using these funds to replace funding for programs in place prior to December 31, 1999. Over 30 health-related groups endorse CA-35.

2001 – Incoming Governor Martz dramatically reduces the Montana Tobacco Use Prevention Program (MTUPP) funding from \$3.5 million recommended by Governor Racicot to \$500,000. Funding was further reduced to \$385,000 during the year as budget cuts were made.

2002 – The Alliance drafted an initiative to dedicate 32 percent of the MSA dollars to fund MTUPP and 17 percent for the Children's Health Insurance Program (CHIP) and the Montana Comprehensive Health Association (MCHA) as the first step in a two-step strategy toward increasing the tobacco tax and funding health care programs. Initiative 146, The 2002 Tobacco Disease Prevention Act, passes with 65 percent support. The Alliance formed the Tobacco Settlement for Tobacco Prevention Ballot Committee in support of I-146. I-146 prohibited using I-146 funds to supplant funding from the general fund.

2003 – The Legislature does a one-time diversion I-146 funds, cutting tobacco prevention to \$3 million instead of the recommended \$9.3 million. CHIP and MCHA received some funds from MSA. The Legislature appropriated funding for some existing prevention and health programs with the Prevention and Stabilization Account. Members of the Alliance pushed for a \$1.50 tax increase in the price of tobacco products. HB 204, which came at the request of State Auditor John Morrison, and was widely supported by small business groups and Alliance members, proposed to increase the tobacco tax by \$1.50 to fund various health care needs, including CHIP and small business health insurance tax credits. The Legislature tabled HB 204 and instead passed SB 407, which increased cigarette taxes by 52 cents, with the new revenue dedicated to the general fund rather than health care needs. Also, members of the Alliance opposed HB 758, legislation that pre-empted local government laws to allow smoking in establishments with gambling licenses.

2004 – The Alliance drafted I-149 which increases the price of cigarettes by \$1, with comparable increases on other tobacco products. I-149 dedicates 44 percent of the total tobacco tax to fund an expansion of CHIP, improved Medicaid payments to health care providers, a new prescription drug program for the needy and a new small business health insurance program.

NOVEMBER 2, 2004 – I-149 passed with 63 percent support.

Reminder of 2004 – 2005 – The Alliance advocated for the full implementation of I-146 and I-149. The Alliance worked with the incoming Governor to achieve these goals and sets a 2005 legislative agenda.

Alliance for a Healthy Montana

2005 Legislative Priorities

“The vision and ambition of the Alliance as a health coalition is to make Montana a healthier place by promoting proven tobacco use prevention efforts, advocating for health care for our most needy Montanans, strengthening the health care safety net, building public support for prevention and health care funding, and lobbying for new prevention and health care funding.”

In developing the following action items and the corresponding appropriations recommendations the Alliance sought to address the issue of long term funding with a potential decreasing funding source. The Alliance appropriation proposals are consistent with Governor Schweitzer’s Budget and thus are sustainable into the near future.

Action Item One:

Implement Constitutional Amendment 35 (CA-35): The Montana Tobacco Settlement Trust

The Alliance for a Healthy Montana urges the Governor Schweitzer and the Legislature to fulfill the intent of Constitutional Amendment 35 – funding tobacco prevention and health care and not to replace existing programs in place prior to December 31, 1999 with Trust funds. The Alliance further recommends that the Administration and Legislature put into place a formal process by which public input can be collected as to the most appropriate use of available funds from the Trust and establish a tracking process for understanding where the money is appropriated.

(See Appendix A for Language of CA-35)

Action Item Two:

Implement I-146: The 2002 Tobacco Disease Prevention Act

The Alliance urges Governor Schweitzer and the Legislature to dedicate the state’s share of the national tobacco settlement in accordance with I-146. In the next biennium, this would result in \$7.3 million for CHIP and the Montana Comprehensive Health Care Association and \$13.7 million for tobacco use prevention in funding from the MSA. The Alliance further recommends Montana Tobacco Use Prevention Program (MTUPP) be funded at the minimum levels recommended by the US Centers for Disease Control and Prevention (CDC) of \$9.3 million per year.

To reduce the death and disease caused by commercial tobacco the state of Montana should adequately fund a statewide, comprehensive tobacco disease prevention program. MTUPP is Montana’s statewide

program; unfortunately, due to unstable funding it is not a comprehensive program. The Alliance will work to ensure funding at CDC minimum levels - \$9.3 million annually - for MTUPP.

The Alliance applauds the incoming Governor for his pledge to recommend the use of the I-146 funds as intended in the initiative. This is a dramatic positive change from the budget recommended by the out-going Governor however we note that the current proposal falls short of the CDC recommended minimum level.

The Alliance would like to take special note of the Prevention & Stabilization Account (PSA) Programs. The PSA was created during the 2003 session through SB 485, which modified the statute established by I-146 and diverted \$6.4 million annually from the health care account that were intended for the Tobacco Use Prevention Program.

The Alliance believes these are important programs that should be funded from the state's general fund, not from such unstable funding sources as the tobacco settlement funds or the tobacco tax revenues. These programs could be funded with the portion of the increased tobacco tax revenue generated by I-149 that is dedicated to the general fund, the interest from the Tobacco Settlement Trust Fund or revenue generated by I-149 between January 1 and June 30, 2005.

(See Appendix B for the Language of I-146.)

Action Item Three:

Implement I-149: The 2004 Healthy Kids Healthy Montana Tobacco Tax Increase

The Alliance for a Healthy Montana urges Governor Schweitzer and members of the 59th Montana Legislature to dedicate the new state revenue generated by I-149 to the areas specified in the initiative, which will help ensure that all Montanans have access to affordable health care. Further, since there has been some controversy on the issue of funding from the tobacco tax for veteran's nursing homes, we want to repeat our support for the funding from the earmarked fund, which we believe will increase in amount under I-149.

I-149 increased taxes, effective January 1, 2005, on cigarettes and other tobacco products. The Governor's Office Budget and Program Planning has estimated that the tax increase will generate more than \$19 million in new revenue for the balance of FY 2005, \$36 million in new revenue in FY 2006 and \$35 million in new revenue in FY 2007.

In developing this proposal, the Alliance has been especially sensitive to the Governor's request that these programs are sustainable. We appreciate the Governor's concern that the tobacco tax revenue may actually diminish in the future as the tax increases forces consumers to quit using tobacco products. Therefore, our program meets the Governor's test of sustainability through 2011.

The Alliances proposes that these funds be appropriated as follows:

- **CHIP.** Approximately \$4.1 million a year in FY 2006 and FY 2007 to increase the number of kids covered by the Children's Health Insurance Program (CHIP) and Medicaid. These funds would enable the state to provide CHIP coverage to an additional 6,468 children by expanding eligibility for CHIP and removing the Medicaid assets test. Approximately 1,500 additional kids would receive their health insurance from Medicaid
- **Prescription Drug Coverage.** When fully operational the Montana Rx Access program will provide \$13.5 million a year to help 20,000 low-income seniors and persons with disabilities take advantage of the new Medicare Part D prescription benefit. Targeted to eligible persons with incomes between 135 - 200 percent of the federal poverty level, the program will help pay the premium and deductible for Part D. Consultations with local pharmacists and educational resources will help consumers and health care providers find ways to save on prescription drug costs.
- **Reduce the Number of Uninsured Montanans.** \$5.5 million in FY 2006 and \$9 million in FY 2007 to finance the Small Business Healthcare Affordability Act. This new program would implement Governor Schweitzer's insurance purchasing pool proposal, which would offer more affordable health insurance products to employers and employees who currently lack coverage. Refundable and advanceable tax credits, as proposed by Insurance Commissioner John Morrison, would be used to make the purchasing pool more affordable.
- **Medicaid Services.** \$10.6 million each year of the FY 2006-2007 biennium to strengthen the medical services provided by the Medicaid program. Some funds would be used to create new services to treat low-birth weight infants, provide pulmonary rehab services and provide other services. Funds also would be used to increase Medicaid reimbursement rates to physicians, dentists, physician assists, physical therapists, nursing homes, hospitals and for community-based mental health care and services for developmentally disabled Montanans.

The Alliance applauds the thoughtful and inclusive nature of the incoming Governor and his staff through the development of his budget. This process should result in a positive change for Montana. The Alliance recognizes there are some differences between the recommendations of the Governor's Budget and the proposals developed by the Alliance. By and large, the Alliance and the Governor are in agreement on how the I-149 revenue should be spent and clearly share the same vision for a healthy Montana. The differences are small and are on the details of what the Alliance believes is a better/different approach to achieving the common vision we share with the Governor and we hope the 2005 legislature.

(See Appendix C for the Language of I-149)

Action Item Four:

Protect Montanans From Exposure to Secondhand Tobacco Smoke

Exposure to tobacco smoke is a public health problem. An estimated 110 to 200 adults, children and babies die because of exposure to other people's smoke. All Montanans should have a right to a smokefree workplace.

The Alliance encourages the governor and the 59th Legislature to provide protections for all Montanans from the deadly toxins in tobacco smoke and oppose any weakening of protection for workers and the public from exposure to secondhand tobacco smoke.

Action Item Five:

Increase Resources for Tobacco Tax and MSA enforcement

The Alliance is committed to the sustainability of our policy recommendations and programs. It is essential that the State of Montana enforce the provisions outlined in the Master Settlement Agreement with due diligence in order to continue receiving annual settlement fund payments. It is also important that the State have a sound enforcement plan for tobacco tax collection to maximize the revenue. Therefore the Alliance fully supports the Department of Revenue and the Department of Justice's recommendation to increase their funding for MSA and Tobacco Tax enforcement by \$700,000 over the biennium. We suggest this increase be funded via either the Tobacco Trust Fund interest or new revenue in the general fund as a result of the tobacco tax increase.

Alliance Members

AARP Montana, American Cancer Society, American Heart Association, American Lung Association of the Northern Rockies, BlueCrossBlueShield of Montana, Deaconess Billings Clinic, Montana Academy of Pediatricians, Montana Association for Disability Services, Montana Chapter-American Academy of Pediatrics, Montana Children's Initiative, Montana Council for Maternal and Child Health, Montana Diabetes Association, MHA... An Association of Montana Healthcare Providers, Montana Medical Association, Montana Nurses Association, Montana Pharmacy Association, Montana Physicians for Prevention, Montana Public Health Association, Montana Senior Citizen Association, New West Health, ProtectMontanaKids.org, St. Vincent Healthcare, Montana Dental Association and WEEL.



- (v) a tobacco use resource center;
- (vi) special education and cessation programs to reach youth and women of childbearing age;
- (vii) smokeless tobacco user programs; and
- (viii) advertising issue programs.

(4) "Tobacco products" means a substance intended for human use that contains tobacco and includes but is not limited to cigarettes, cigars, smoking tobacco, and tobacco intended for use in an oral or nasal cavity.

(5) "Trust fund" means the Montana tobacco settlement trust fund authorized by Article XII, section 4, of the Montana constitution and implemented through this part."

Section 2. Tobacco settlement accounts - - purpose -- uses. (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund a statewide comprehensive tobacco disease prevention program designed to:

- (a) discourage children from starting use of tobacco;
- (b) assist adults in quitting use of tobacco;
- (c) provide funds for the Children's Health Insurance Program; and
- (d) provide funds for the comprehensive health association programs.

(2) An amount equal to 32% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding a statewide tobacco prevention program designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco prevention program and shall adopt rules to implement the program. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs - - August 1999, or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to 17% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for:

- (a) matching funds to secure the maximum amount of federal funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10; and
- (b) programs of the comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within two years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6) Programs funded under this section that are private in nature may be funded through contracted services.

Appendix C

Language of I-149 – the Healthy Kids Healthy Montana Tobacco Tax Increase.

I-149 specifies that a new special revenue account – the Health and Medicaid Initiatives fund – is to be created for the new tobacco tax revenue. The initiative states that this account "shall be used only to

provide funding for:

- (3) (a) *the state funds necessary to take full advantage of available federal matching funds in order to maximize enrollment of eligible children under the children's health insurance program, provided for under Title 53, chapter 4, part 10, and to provide outreach to the eligible children. The increased revenue in this account is intended to increase enrollment rates for eligible children in the program and not to be used to support existing levels of enrollment based upon appropriations for the biennium ending June 30, 2005.*
 - (b) *a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;*
 - (c) *increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.*
 - (d) *an offset to loss of revenue to the general fund as a result of new tax credits or to fund new programs to assist small businesses with the costs of providing health insurance benefits to employees, if these tax credits or programs are established by the legislature after the effective date of this section.*
- (4) *Until the programs or credits described in subsections 3(b) and 3(d) are established, the funding shall be used exclusively for the purposes described in subsections 3(a) and 3(c).*
 - (5) *The phrase 'trended traditional level of appropriation' as used in subsection 3(c), means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized and payment amount during the past five biennial budgets."*